STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Independent Telephone Association	)	
	)	
	)	**Docket No. 01-0808**
	)	
Petition requesting an Emergency Order with Regard to Intrastate Access Charges of Incumbent Local Exchange Carriers serving 35,000 or fewer Access Lines	))))	

REPLY BRIEF ON EXCEPTIONS OF SBC ILLINOIS

Illinois Bell Telephone Company ("SBC Illinois"), by one of its attorneys, submits this Reply Brief on Exceptions in the above-captioned proceeding. SBC Illinois' Reply Brief on Exceptions will primarily address portions of the Briefs on Exceptions submitted by the Illinois Commerce Commission Staff ("Staff"), AT& T Communications of Illinois, Inc. ("AT&T") and the Illinois Independent Telephone Association ("IITA"). The fact that SBC Illinois is not submitting exceptions on portions of these briefs or the briefs any of the other parties does not necessarily mean that SBC Illinois agrees or disagrees with those other parties' position.

I. The Proposed Order Should be Rejected, Because It Fails to Address the Policy Issues that Should Be Decided in this Proceeding.

Both Staff and AT&T take the position that the Proposed Order, if adopted, would result in the Commission's abandonment of its prior practices regarding intrastate access charges for small companies and would not provide any guidance for setting small companies' intrastate access charges. AT&T brief, pp. 1-2 (". . . the ALJ has recommended that the Commission abandon its past policies and replace them with no access policy at all for rural ILECs."); Staff Exceptions, p. 5 ("After all the effort expended towards establishing a record in this proceeding, the Proposed Order endorses the status quo and adopts an option that was not advanced by any party in the docket."). See also Staff Exceptions, p. 6 ("In other words, the Proposed Order provides no policy guidelines for companies to follow when they wish to adjust intrastate access rates.").

The ultimate result of this failure to provide any guidance to small companies on setting their intrastate access rate would likely be more litigation. See e.g., Staff's Exceptions, p. 6. ("More litigation is likely to result from the Proposed Order's recommended non-ruling in this proceeding."). See also, SBC Illinois' Exceptions, pp. 4-5.

The IITA does not criticize the Proposed Order's lack of policy guidelines for setting intrastate access charges for the small companies, but instead "chooses to accept the ultimate conclusion" reached in the Proposed Order. IITA Exceptions, p. 1. The IITA seeks to enhance what apparently is for its members the favorable result of being permitted to break mirroring and not to reflect the interstate access charge reduction by seeking a "safe harbor" to avoid the potential expense and burdensome effect of increased litigation. IITA Exceptions, pp. 1; 3. Under both of the IITA's proposed "safe harbor" alternatives, the Commission would end mirroring between interstate and intrastate access charges and would no longer require cost companies to file access charges pursuant to the 46th Interim Order in Docket No. 83-0142 or average schedule companies to file access charges pursuant to the First Interim Order in Docket No. 90-0425. If the small companies nevertheless chose to continue mirroring, such rates would not be subject to any investigation pursuant to a complaint or petition filed under Section 13-504. This "safe harbor" is really little more than a guarantee to permit some small companies, whose current rates are lower than what the mirrored rates would be, to raise their rates. The only companies likely to choose to mirror would be those companies whose rates would go up as a result of mirroring. Thus, this "safe harbor" is simply a guarantee of a rate increase without incurring the risk of a Section 13-504 petition or complaint.

The IITA's discussion of the need for a safe harbor and its discussion of how case by case litigation would be burdensome (See IITA Exceptions, pp. 3-7) demonstrates that various small companies might choose to approach their rate settings in very different manners that could lead to increased litigation. For reasons cited in SBC Illinois' Brief on Exceptions (pp. 3-8) and Staff's Brief on Exceptions (pp. 8-16), the better approach would be for the Commission to use the record in this proceeding to adopt a proposal that provides guidance to the small companies on setting intrastate access charges.

II. The Commission Should Not Adopt the Proposed Order's "No Policy" Approach, But Should Instead Adopt a Proposal that Would Enable the Small Companies to Seek to Remain Revenue Neutral.

As Staff noted in its Brief on Exceptions (p. 5), none of the parties advocated breaking the "mirror," and all, with the exception of AT&T, supported the "policy goal of revenue neutrality." Staff continues to urge the Commission to not only adopt an intrastate access charge policy for the small companies, but also takes the position that if "explicit Commission action reduces the revenues of small companies, then the Commission should provide some mechanism for small companies to recoup this revenue." Staff Exceptions, p. 13.

SBC Illinois agrees with Staff that the small companies should have some means to seek to remain revenue neutral. The reason for this is that the implementation of the MAG plan is basically a structural change and a change in pricing policy. It is not an actual change to a company's cost of service or revenue requirement. Under Staff's proposal and proposed exceptions language, the small companies would have an opportunity to cover the revenues lost through mirroring through the creation of a MAG fund that would be financed by a subscriber line charge of $2.01. This charge would be imposed on all small companies' subscribers. The revenues from the subscriber line charge would be administered in a pooling arrangement by the ISCECA to compensate for revenues lost due to mirroring. Staff Exceptions pp. 16-17; 23.

Staff's approach would provide guidance on setting intrastate access charges and would allow the small companies to seek to remain revenue neutral. SBC Illinois' proposal is very similar in concept to Staff's, but differs in some of the details. SBC Illinois' primary concern with Staff's proposal has been the pooling arrangements, for reasons described in SBC Illinois' Reply Brief (pp. 9-10) which is incorporated by reference, but will not be reiterated here. Under SBC Illinois' proposal, if a small company would experience revenue shortfalls as a result of a return to full mirroring, the shortfalls should first be addressed by increases in end user rates in a transition period. During the transition period, any shortfalls not fully addressed by the end user increases implemented to date could be recovered from the state HCF by qualifying companies. It appears that Staff now may be more comfortable with using the USF as a means for small companies to achieve revenue neutrality, although Staff continues to support the details of its own proposal. See Staff Exceptions, p. 13, fn. 3 (". . . were the Commission to elect to mirror and adopt a policy of revenue neutrality, then Staff's objections to increase USF funding would be less ardent.").

SBC Illinois' proposal would be consistent with the past policy of applying cost causation principles while at the same time providing the companies with an opportunity to remain revenue neutral, although not guaranteeing revenue neutrality. It would also be consistent with prior Commission orders that removed implicit subsidies and made any subsidies explicit. In any event, the Commission should not adopt the Proposed Order and should instead address the issues that were fully litigated by the parties in this proceeding, continue mirroring and permit the small companies the opportunity to remain revenue neutral.

Respectfully submitted,

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